

TO: Board of Environmental Protection

FROM: Andrea Lani, Bureau of Air Quality

DATE: April 16, 2008

RE: Post to Public Hearing: Chapter 156, CO2 Budget Trading Program Amendments

Statutory and Regulatory Reference:

A. Statutory authority.

38 MRSA Section 585-A provides that the Board of Environmental Protection “may establish and amend regulations to implement ambient air quality standards and emission standards. These regulations shall be designed to achieve and maintain ambient air quality standards and emission standards within any region and prevent air pollution.”

B. Specific legal mandates requiring adoption.

38 MRSA §580 established a statewide carbon dioxide cap-and-trade program for fossil fuel fired electrical generating units within the State that have a nameplate capacity equal to or greater than 25 megawatts and required the Department to develop carbon dioxide cap-and-trade rules that ensure credible greenhouse gas emissions reductions.

Location/Applicability:

The proposed amendments will apply in all areas of the state.

Description:

In December 2007, the Board of Environmental Protection adopted Chapter 156, CO2 Budget Trading Program, which implemented the Regional Greenhouse Gas Initiative in Maine. Subsequent to adoption, the Department found a number of areas of the rule that needed to be amended for proper functioning of the program. On April 10, 2008, the Legislature passed LD 1945, An Act to Update the Regional Greenhouse Gas Initiative, giving the Department authority to make these changes.

These amendments include the following components: clarification that the Department may initiate air emissions licensing of CO2 budget units and participate in auctions prior to the commencement date of the program; a revision of the definition of “fossil fuel-fired unit” that limits the amount of fossil fuel a new source can use without being subject to the program to no more than 5%; a revision of the definition of “owner” to clarify the different uses of the term owner within the rule; and the addition of voluntary renewable energy market set-aside provisions.

Environmental Issues:

Global climate change resulting from human activity, namely the burning of fossil fuels which increase the concentration of carbon dioxide in the atmosphere, poses a direct and immediate as well as long-term threat to public health, safety and welfare. Increasing global temperatures are predicted to lead to, among other things, increased frequency and severity of droughts, storms and floods; melting of glaciers, ice sheets and the polar sea-ice, raising sea levels to cover shoreline and low-lying land; increase in infectious diseases; changes in distribution and abundance of native tree, plant and animal species; disruption of forestry, agriculture and recreational industries. Chapter 156 is intended to reduce emissions of carbon dioxide from large power producers in the state through the establishment of a cap-and-trade program which will operate on a regional scale.

Departmental Recommendation:

The Department recommends that the Board post the Department's proposed amendments to Chapter 156, CO2 Budget Trading Program, as proposed to a public hearing on June 5, 2008.

Estimated Time of Presentation:

30 minutes.